

AMENDED IN SENATE AUGUST 19, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 16, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1503

Introduced by Assembly Member Lieu

February 27, 2009

An act to amend Section 127405 of, to amend and renumber the heading of Article 3 (commencing with Section 127400) of Chapter 2 of, to add the heading of Chapter 2.5 (commencing with Section 127400) to, and to add Article 2 (commencing with Section 127450) to Chapter 2.5 of, Part 2 of Division 107 of the Health and Safety Code, relating to emergency medical care billing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1503, as amended, Lieu. Health facilities: ~~physicians and surgeons~~ *emergency physicians*: emergency medical care: billing.

Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health. Existing law requires each hospital, as a condition of licensure, to maintain written policies about discount payment and charity care for financially qualified patients, as defined. These policies are required to include, among other things, a section addressing eligibility criteria, as prescribed. Existing law requires each hospital to perform various functions in connection with the hospital charity care and discount pay policies, including providing patients with notice that contains information about the hospital's discount payment and charity care policies, including information about eligibility and attempting to determine the availability

of private or public health insurance coverage for each patient. Existing law also specifies billing and collection procedures to be followed by a hospital, its assignee, collection agency, or billing service.

This bill would provide that uninsured patients or patients with high medical costs who are at or below 350% of the federal poverty level are eligible to apply to ~~a physician and surgeon~~ *the emergency physician, as defined*, who provides emergency medical services in a general acute care hospital for a discount payment pursuant to a discount payment policy. The bill would require the ~~physician and surgeon~~ *emergency physician* to limit expected payment for services provided to a patient at or below 350% of the federal poverty level and who is eligible under the ~~physician and surgeon's~~ *emergency physician's* discount payment policy, as specified.

The bill would require the above-described written notice that hospitals are required to provide patients regarding the hospital's charity care and discount pay policies to include a statement that ~~a physician and surgeon~~ *the emergency physician* who provides emergency medical ~~services~~ *care* in a hospital that provides emergency care is also required by law to provide discounts to uninsured patients or patients with high medical costs who are at or below 350% of the federal poverty level. The bill would also specify billing and collection procedures to be followed by ~~a physician and surgeon~~ *the emergency physician*, its assignee, collection agency, or billing service.

This bill would provide that a violation of the above provisions shall not constitute a violation of the terms of a physician and surgeon's licensure.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Chapter 2.5 (commencing with
2 Section 127400) is added to Part 2 of Division 107 of the Health
3 and Safety Code, immediately preceding Section 127400, to read:

4
5 CHAPTER 2.5. FAIR PRICING POLICIES

6
7 SEC. 2. The heading of Article 3 (commencing with Section
8 127400) of Chapter 2 of Part 2 of Division 107 of the Health and
9 Safety Code is amended and renumbered to read:

Article 1. Hospital Fair Pricing Policies

SEC. 3. Section 127405 of the Health and Safety Code is amended to read:

127405. (a) (1) (A) Each hospital shall maintain an understandable written policy regarding discount payments for financially qualified patients as well as an understandable written charity care policy. Uninsured patients or patients with high medical costs who are at or below 350 percent of the federal poverty level, as defined in subdivision (b) of Section 127400, shall be eligible to apply for participation under a hospital's charity care policy or discount payment policy. Notwithstanding any other provision of this article, a hospital may choose to grant eligibility for its discount payment policy or charity care policies to patients with incomes over 350 percent of the federal poverty level. Both the charity care policy and the discount payment policy shall state the process used by the hospital to determine whether a patient is eligible for charity care or discounted payment. In the event of a dispute, a patient may seek review from the business manager, chief financial officer, or other appropriate manager as designated in the charity care policy and the discount payment policy.

(B) The written policy regarding discount payments shall also include a statement that ~~a physician and surgeon~~ *an emergency physician, as defined in Section 127450*, who provides emergency medical services in a hospital that provides emergency care is also required by law to provide discounts to uninsured patients or patients with high medical costs who are at or below 350 percent of the federal poverty level. *This statement shall not be construed to impose any additional responsibilities upon the hospital.*

(2) Rural hospitals, as defined in Section 124840, may establish eligibility levels for financial assistance and charity care at less than 350 percent of the federal poverty level as appropriate to maintain their financial and operational integrity.

(b) A hospital's discount payment policy shall clearly state eligibility criteria based upon income consistent with the application of the federal poverty level. The discount payment policy shall also include an extended payment plan to allow payment of the discounted price over time. The policy shall provide that the hospital and the patient may negotiate the terms of the payment plan.

1 (c) The charity care policy shall state clearly the eligibility
2 criteria for charity care. In determining eligibility under its charity
3 care policy, a hospital may consider income and monetary assets
4 of the patient. For purposes of this determination, monetary assets
5 shall not include retirement or deferred compensation plans
6 qualified under the Internal Revenue Code, or nonqualified deferred
7 compensation plans. Furthermore, the first ten thousand dollars
8 (\$10,000) of a patient's monetary assets shall not be counted in
9 determining eligibility, nor shall 50 percent of a patient's monetary
10 assets over the first ten thousand dollars (\$10,000) be counted in
11 determining eligibility.

12 (d) A hospital shall limit expected payment for services it
13 provides to a patient at or below 350 percent of the federal poverty
14 level, as defined in subdivision (b) of Section 124700, eligible
15 under its discount payment policy to the amount of payment the
16 hospital would expect, in good faith, to receive for providing
17 services from Medicare, Medi-Cal, Healthy Families, or another
18 government-sponsored health program of health benefits in which
19 the hospital participates, whichever is greater. If the hospital
20 provides a service for which there is no established payment by
21 Medicare or any other government-sponsored program of health
22 benefits in which the hospital participates, the hospital shall
23 establish an appropriate discounted payment.

24 (e) A patient, or patient's legal representative, who requests a
25 discounted payment, charity care, or other assistance in meeting
26 his or her financial obligation to the hospital shall make every
27 reasonable effort to provide the hospital with documentation of
28 income and health benefits coverage. If the person requests charity
29 care or a discounted payment and fails to provide information that
30 is reasonable and necessary for the hospital to make a
31 determination, the hospital may consider that failure in making its
32 determination.

33 (1) For purposes of determining eligibility for discounted
34 payment, documentation of income shall be limited to recent pay
35 stubs or income tax returns.

36 (2) For purposes of determining eligibility for charity care,
37 documentation of assets may include information on all monetary
38 assets, but shall not include statements on retirement or deferred
39 compensation plans qualified under the Internal Revenue Code,
40 or nonqualified deferred compensation plans. A hospital may

1 require waivers or releases from the patient or the patient's family,
2 authorizing the hospital to obtain account information from
3 financial or commercial institutions, or other entities that hold or
4 maintain the monetary assets, to verify their value.

5 (3) Information obtained pursuant to paragraph (1) or (2) shall
6 not be used for collections activities. This paragraph does not
7 prohibit the use of information obtained by the hospital, collection
8 agency, or assignee independently of the eligibility process for
9 charity care or discounted payment.

10 (4) Eligibility for discounted payments or charity care may be
11 determined at any time the hospital is in receipt of information
12 specified in paragraph (1) or (2), respectively.

13 SEC. 4. Article 2 (commencing with Section 127450) is added
14 to Chapter 2.5 of Part 2 of Division 107 of the Health and Safety
15 Code, to read:

16
17 Article 2. ~~Physician and Surgeon~~ *Emergency Physician Fair*
18 *Pricing Policies*
19

20 127450. As used in this article, the following terms have the
21 following meanings:

22 (a) "Allowance for financially qualified patient" means, with
23 respect to ~~services~~ *emergency care* rendered to a financially
24 qualified patient, an allowance that is applied after the ~~physician~~
25 ~~and surgeon's~~ *emergency physician's* charges are imposed on the
26 patient, due to the patient's determined financial inability to pay
27 the charges.

28 (b) "*Emergency care*" means *emergency medical services and*
29 *care, as defined in Section 1317.1, that is provided by an*
30 *emergency physician in the emergency department of a hospital.*

31 (c) "*Emergency physician*" means *a physician and surgeon*
32 *licensed pursuant to Chapter 2 (commencing with Section 2000)*
33 *of the Business and Professions Code who is credentialed by a*
34 *hospital and either employed or contracted by the hospital to*
35 *provide emergency medical services in the emergency department*
36 *of the hospital, except that an "emergency physician" shall not*
37 *include a physician specialist who is called into the emergency*
38 *department of a hospital or who is on staff or has privileges at the*
39 *hospital outside of the emergency department.*

(d) “Federal poverty level” means the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of subsection (2) of Section 9902 of Title 42 of the United States Code.

(e)

(e) “Financially qualified patient” means a patient who is both of the following:

(1) A patient who is a self-pay patient or a patient with high medical costs.

(2) A patient who has a family income that does not exceed 350 percent of the federal poverty level.

~~(d) “Emergency care” means care provided in the emergency department of a hospital.~~

(e)

(f) “Hospital” means a facility that is required to be licensed under subdivision (a) of Section 1250, except a facility operated by the State Department of Mental Health or the Department of Corrections and Rehabilitation.

(f)

(g) “Office” means the Office of Statewide Health Planning and Development.

~~(g) “Physician and surgeon” means a physician and surgeon licensed pursuant to Chapter 2 (commencing with Section 2000) of the Business and Professions Code who provides emergency medical services in a hospital that provides emergency care.~~

(h) “Self-pay patient” means a patient who does not have third-party coverage from a health insurer, health care service plan, Medicare, or Medicaid, and whose injury is not a compensable injury for purposes of workers’ compensation, automobile insurance, or other insurance as determined and documented by the ~~physician and surgeon~~ *emergency physician*. Self-pay patients may include charity care patients.

(i) “A patient with high medical costs” means a person whose family income does not exceed 350 percent of the federal poverty level if that individual does not receive a discounted rate from the ~~physician and surgeon~~ *emergency physician* as a result of his or her third-party coverage. For these purposes, “high medical costs” means any of the following:

1 (1) Annual out-of-pocket costs incurred by the individual at the
2 hospital that provided emergency care that exceed 10 percent of
3 the patient's family income in the prior 12 months.

4 (2) Annual out-of-pocket expenses that exceed 10 percent of
5 the patient's family income, if the patient provides documentation
6 of the patient's medical expenses paid by the patient or the patient's
7 family in the prior 12 months. The ~~physician and surgeon~~
8 *emergency physician* may waive the request for documentation.

9 (3) A lower level determined by the ~~physician and surgeon~~
10 *emergency physician* in accordance with the ~~physician and~~
11 ~~surgeon's emergency physician's~~ discounted payment policy.

12 (j) "Patient's family" means the following:

13 (1) For persons 18 years of age and older, spouse, domestic
14 partner, as defined in Section 297 of the Family Code, and
15 dependent children under 21 years of age, whether living at home
16 or not.

17 (2) For persons under 18 years of age, parent, caretaker relatives,
18 and other children under 21 years of age of the parent or caretaker
19 relative.

20 127451. A violation of this article shall not constitute a
21 violation of the terms of a physician and surgeon's licensure.

22 127452. (a) Uninsured patients or patients with high medical
23 costs who are at or below 350 percent of the federal poverty level
24 shall be eligible to apply to a ~~physician and surgeon~~ *an emergency*
25 *physician* for a discount payment pursuant to a discount payment
26 policy. Notwithstanding any other provision of this article, a
27 ~~physician and surgeon~~ *an emergency physician* may choose to
28 grant eligibility for a discount payment policy to patients with
29 incomes over 350 percent of the federal poverty level.

30 (b) A ~~physician and surgeon~~ *An emergency physician* shall limit
31 expected payment for services provided to a patient at or below
32 350 percent of the federal poverty level and who is eligible under
33 the ~~physician and surgeon's emergency physician's~~ discount
34 payment policy to an amount that is no greater than 50 percent of
35 the median of billed charges based on a nationally recognized
36 database of physician and surgeon charges until the nonprofit FAIR
37 Health, Inc. creates a database that makes available the rate of
38 payment received by ~~physicians~~ *physician and surgeons* from
39 commercial insurers for the same services in the same or similar
40 geographic region. When FAIR Health, Inc. makes available the

1 rate of payment received by physicians and surgeons from
2 commercial insurers for the same services in the same or similar
3 geographic region, the amount of expected payment under this
4 section shall be no greater than the median or average of rates paid
5 by commercial insurers for the same or similar services in the same
6 or similar geographic region.

7 (c) (1) If ~~a physician and surgeon~~ *an emergency physician* seeks
8 reimbursement from the Maddy Fund pursuant to Section 1797.98c,
9 then the ~~physician and surgeon~~ *emergency physician* shall, at that
10 time, cease any further billing or collection activity for that patient.

11 (2) If the ~~physician and surgeon~~ *emergency physician* does not
12 receive reimbursement from the Maddy Fund after attempting to
13 obtain reimbursement from the Maddy Fund, then the provisions
14 of this article shall apply.

15 (3) If the ~~physician and surgeon~~ *emergency physician* does not
16 attempt to seek reimbursement from the Maddy Fund, the
17 provisions of this article shall apply.

18 (d) A patient, or patient's legal representative, who requests a
19 discounted payment or other assistance in meeting his or her
20 financial obligation to the ~~physician and surgeon~~ *emergency*
21 *physician* shall make every reasonable effort to provide the
22 ~~physician and surgeon~~ *emergency physician* with documentation
23 of income and health benefits coverage, if the ~~physician and~~
24 ~~surgeon~~ *emergency physician* requests the documentation. If the
25 patient, or the patient's legal representative, requests a discounted
26 payment and fails to provide information that is reasonable and
27 necessary for the ~~physician and surgeon~~ *emergency physician* to
28 make a determination, the ~~physician and surgeon~~ *emergency*
29 *physician* may consider that failure in making its determination.

30 (1) For purposes of determining eligibility for discounted
31 payment, the ~~physician and surgeon~~ *emergency physician* may
32 rely on the determination made by the hospital at which emergency
33 care was provided. If the ~~physician and surgeon~~ *emergency*
34 *physician* chooses to make a separate determination of eligibility
35 for discounted payment, documentation of income shall be limited
36 to recent pay stubs or income tax returns. The ~~physician and~~
37 ~~surgeon~~ *emergency physician*, at his or her discretion, may accept
38 self-attestation by a patient, or a patient's legal representative, but
39 shall not request documentation of income other than that
40 authorized in this paragraph.

1 (2) Information obtained pursuant to paragraph (1) shall not be
2 used for collections activities. This paragraph does not prohibit
3 the use of information obtained by the ~~physician and surgeon~~
4 *emergency physician*, collection agency, or assignee independent
5 of the eligibility process for discounted payment.

6 (3) Eligibility for discounted payments may be determined at
7 any time the ~~physician and surgeon~~ *emergency physician* is in
8 receipt of information specified in paragraph (1) or (2),
9 respectively.

10 127454. (a) Each ~~physician and surgeon~~ *emergency physician*
11 shall make all reasonable efforts to obtain from the patient, or his
12 or her representative, information about whether private or public
13 health insurance or sponsorship may fully or partially cover the
14 charges for emergency ~~services rendered by the physician and~~
15 ~~surgeon~~ *care rendered by the emergency physician* to a patient,
16 including, but not limited to, any of the following:

17 (1) Private health insurance.

18 (2) Medicare.

19 (3) The Medi-Cal program, the Healthy Families Program, the
20 California Children's Services Program, or other publicly funded
21 programs designed to provide comprehensive health coverage.

22 (b) If a ~~physician and surgeon~~ *the emergency physician or his*
23 *or her representative* bills a patient who has not provided proof
24 of coverage by a third party at the time the care is provided or upon
25 discharge, as a part of that billing, the ~~physician and surgeon~~
26 *emergency physician* shall provide the patient with a clear and
27 conspicuous notice that includes all of the following:

28 (1) A statement of charges for services rendered by the ~~physician~~
29 ~~and surgeon~~ *emergency physician*.

30 (2) A request that the patient inform the ~~physician and surgeon~~
31 *emergency physician* if the patient has health insurance coverage,
32 Medicare, Healthy Families, Medi-Cal, or other coverage.

33 (3) A statement that if the consumer does not have health
34 insurance coverage, the consumer may be eligible for Medicare,
35 Healthy Families, Medi-Cal, California Children's Services
36 Program, or discounted payment care.

37 (4) Information regarding the financially qualified patient and
38 discounted payment application, including the following:

1 (A) A statement that indicates that if the patient lacks, or has
2 inadequate, insurance, and meets certain low-and moderate-income
3 requirements, the patient may qualify for discounted payment.

4 (B) The name and telephone number of ~~a physician and surgeon~~
5 *the emergency physician's* employee or office from whom or which
6 the patient may obtain information about the ~~physician and~~
7 ~~surgeon's emergency physician's~~ discount payment policy, and
8 how to apply for that assistance.

9 (c) (1) In addition to the statement of the charges, if ~~a physician~~
10 ~~and surgeon~~ *the emergency physician's* uses the following notice
11 in any billing, that ~~physician and surgeon emergency physician~~
12 shall be deemed to have complied with the notice requirements of
13 this section: "If you are uninsured or have high medical costs,
14 please contact ____ (name of person responsible for discount
15 payment policy) at ____ (area code and phone number) for
16 information on discounts and programs ~~like for which you may be~~
17 *eligible, including the Medi-Cal program. If you have coverage,*
18 *please tell us so that we may bill your plan."*

19 (2) If ~~a physician and surgeon~~ *the emergency physician* or the
20 assignee of the ~~physician and surgeon emergency physician~~ lacks
21 the capacity to provide the notice specified in paragraph (1), the
22 ~~physician and surgeon emergency physician~~ or his or her assignee
23 shall be deemed to have complied with the notice requirements of
24 this section if the information required under this section is
25 provided upon request and if the following is printed on the bill
26 in 14-point bold type: "If uninsured or high medical bill, call re:
27 discount."

28 127455. (a) Each ~~physician and surgeon emergency physician~~
29 shall have a written policy about when and under whose authority
30 patient debt is advanced for collection.

31 (b) Each ~~physician and surgeon emergency physician~~ shall
32 establish a written policy defining standards and practices for the
33 collection of debt, and shall obtain a written agreement from any
34 agency that collects ~~physician and surgeon emergency physician~~
35 receivables that it will adhere to the ~~physician and surgeon's~~
36 *emergency physician's* standards and scope of practice. The policy
37 shall not conflict with other applicable laws and shall not be
38 construed to create a joint venture between the ~~physician and~~
39 ~~surgeon emergency physician~~ and the external entity, or otherwise
40 to allow physician and surgeon governance of an external entity

1 that collects physician and surgeon receivables. In determining
2 the amount of a debt ~~a physician and surgeon~~ *the emergency*
3 *physician* may seek to recover from patients who are eligible under
4 ~~the physician and surgeon's emergency physician's~~ *physician's* charity care
5 policy or discount payment policy, ~~the physician and surgeon~~
6 *emergency physician* may consider only income and monetary
7 assets as limited by Section 127452.

8 (c) For a patient that lacks coverage, or for a patient that
9 provides information that he or she may be a patient with high
10 medical costs, ~~a physician and surgeon~~ *the emergency physician*,
11 any assignee of the ~~physician and surgeon~~ *emergency physician*,
12 or other owner of the patient debt, including a collection agency,
13 shall not report adverse information to a consumer credit reporting
14 agency or commence civil action against the patient for
15 nonpayment at any time prior to 150 days after initial billing.

16 (d) If a patient is attempting to qualify for eligibility under the
17 ~~physician and surgeon's emergency physician's~~ discount payment
18 policy and is attempting in good faith to settle an outstanding bill
19 with the physician and surgeon by negotiating a reasonable
20 payment plan or by making regular partial payments of a reasonable
21 amount, ~~the physician and surgeon shall not send the unpaid bill~~
22 ~~to any collection agency or other assignee, emergency physician~~
23 ~~or his or her assignee, including a collection agency, shall not~~
24 ~~report adverse information to a consumer credit agency or~~
25 ~~commence a civil action~~ unless that entity has agreed to comply
26 with this article.

27 (e) (1) ~~The physician and surgeon~~ *emergency physician* or other
28 assignee shall not, in dealing with patients eligible under the
29 ~~physician and surgeon's emergency physician's~~ discount payment
30 policies, use wage garnishments or liens on primary residences as
31 a means of collecting unpaid ~~physician and surgeon~~ *emergency*
32 *physician* bills.

33 (2) A collection agency or other assignee shall not, in dealing
34 with any patient under the ~~physician and surgeon's emergency~~
35 *physician's* discount payment policy, use as a means of collecting
36 unpaid ~~physician and surgeon~~ *emergency physician* bills, any of
37 the following:

38 (A) A wage garnishment, except by order of the court upon
39 noticed motion, supported by a declaration filed by the movant
40 identifying the basis for its belief that the patient has the ability to

1 make payments on the judgment under the wage garnishment, that
2 the court shall consider in light of the size of the judgment and
3 additional information provided by the patient prior to, or at, the
4 hearing concerning the patient's ability to pay, including
5 information about probable future medical expenses based on the
6 current condition of the patient and other obligations of the patient.

7 (B) Notice or conduct a sale of the patient's primary residence
8 during the life of the patient or his or her spouse, or during the
9 period a child of the patient is a minor, or a child of the patient
10 who has attained the age of majority is unable to take care of
11 himself or herself and resides in the dwelling as his or her primary
12 residence. In the event a person protected by this paragraph owns
13 more than one dwelling, the primary residence shall be the dwelling
14 that is the patient's current homestead, as defined in Section
15 704.710 of the Code of Civil Procedure or was the patient's
16 homestead at the time of the death of a person other than the patient
17 who is asserting the protections of this paragraph.

18 (3) This requirement does not preclude a ~~physician and surgeon~~
19 *the emergency physician*, collection agency, or other assignee from
20 pursuing reimbursement and any enforcement remedy or remedies
21 from third-party liability settlements, tortfeasors, or other legally
22 responsible parties.

23 (f) Any extended payment plans offered by a ~~physician and~~
24 ~~surgeon~~ *an emergency physician* to assist patients eligible under
25 the ~~physician and surgeon's~~ *emergency physician's* discount
26 payment policy or any other policy adopted by the ~~physician and~~
27 ~~surgeon~~ *emergency physician* for assisting low-income patients
28 with no insurance or high medical costs in settling outstanding
29 past due ~~physician and surgeon~~ *emergency physician* bills, shall
30 be interest free. The ~~physician and surgeon's~~ *emergency physician's*
31 extended payment plan may be declared no longer operative after
32 the patient's failure to make all consecutive payments due during
33 a 90-day period. Before declaring the ~~physician and surgeon's~~
34 *emergency physician's* extended payment plan no longer operative,
35 the ~~physician and surgeon~~ *emergency physician*, collection agency,
36 or assignee shall make a reasonable attempt to contact the patient
37 by telephone, *if the telephone number is known*, and to give notice
38 in writing that the extended payment plan may become inoperative,
39 and of the opportunity to renegotiate the extended payment plan.
40 Prior to the ~~physician and surgeon's~~ *emergency physician's*

1 extended payment plan being declared inoperative, the ~~physician~~
2 ~~and surgeon~~ *emergency physician*, collection agency, or assignee
3 shall attempt to renegotiate the terms of the defaulted extended
4 payment plan, if requested by the patient. The ~~physician and~~
5 ~~surgeon~~ *emergency physician*, collection agency, or assignee shall
6 not report adverse information to a consumer credit reporting
7 agency or commence a civil action against the patient or
8 responsible party for nonpayment prior to the time the extended
9 payment plan is declared to be no longer operative. For purposes
10 of this section, the notice and telephone call to the patient may be
11 made to the last known telephone number and address of the
12 patient.

13 (g) Nothing in this section shall be construed to diminish or
14 eliminate any protections consumers have under existing federal
15 and state debt collection laws, or any other consumer protections
16 available under state or federal law. If the patient fails to make all
17 consecutive payments for 90 days and fails to renegotiate a
18 payment plan, this subdivision does not limit or alter the obligation
19 of the patient to make payments on the obligation owing to the
20 ~~physician and surgeon~~ *emergency physician* pursuant to any
21 contract or applicable statute from the date that the extended
22 payment plan is declared no longer operative, as set forth in
23 subdivision (f).

24 127456. (a) The period described in Section 127455 shall be
25 extended if the patient has a pending appeal for coverage of the
26 services, until a final determination of that appeal is made, if the
27 patient makes a reasonable effort to communicate with the
28 ~~physician and surgeon~~ *emergency physician* about the progress of
29 any pending appeals.

30 (b) For purposes of this section, “pending appeal” includes any
31 of the following:

32 (1) A grievance against a contracting health care service plan,
33 as described in Chapter 2.2 (commencing with Section 1340) of
34 Division 2, or against an insurer, as described in Chapter 1
35 (commencing with Section 10110) of Part 2 of Division 2 of the
36 Insurance Code.

37 (2) An independent medical review, as described in Section
38 10145.3 or 10169 of the Insurance Code.

39 (3) A fair hearing for a review of a Medi-Cal claim pursuant to
40 Section 10950 of the Welfare and Institutions Code.

(4) An appeal regarding Medicare coverage consistent with federal law and regulations.

127457. (a) After the period described in Section 127455, and upon the completion of appeals consistent with Section 127456, prior to commencing further collection activities against a patient, ~~the physician and surgeon~~ *emergency physician*, any assignee of ~~the physician and surgeon~~ *emergency physician*, or other owner of the patient debt, including a collection agency, shall ~~provide the patient not report adverse information to a consumer credit reporting agency or commence a civil action, until after the patient has been provided~~ with a clear and conspicuous written notice containing both of the following:

(1) A plain language summary of the patient's rights pursuant to this article, the Rosenthal Fair Debt Collection Practices Act (Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code), and the federal Fair Debt Collection Practices Act (Subchapter V (commencing with Section 1692) of Chapter 41 of Title 15 of the United States Code). The summary shall include a statement that the Federal Trade Commission enforces the federal act. The summary shall be sufficient if it appears in substantially the following form: "State and federal law require debt collectors to treat you fairly and prohibit debt collectors from making false statements or threats of violence, using obscene or profane language, and making improper communications with third parties, including your employer. Except under unusual circumstances, debt collectors may not contact you before 8 a.m. or after 9 p.m. In general, a debt collector may not give information about your debt to another person, other than your attorney or spouse. A debt collector may contact another person to confirm your location or to enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission by telephone at 1-877-FTC-HELP (382-4357) or online at www.ftc.gov."

(2) A statement that nonprofit credit counseling services may be available in the area.

(b) The notice required by subdivision (a) shall also accompany any document indicating that the commencement of collection activities may occur.

(c) The requirements of this section shall apply to the entity engaged in ~~the collection activities~~ *reporting adverse information*

1 to a consumer credit reporting agency or commencing a civil
2 action against the patient. If a ~~physician and surgeon~~ *an emergency*
3 *physician* assigns or sells the debt to another entity, the obligations
4 shall apply to the entity, including a collection agency, engaged
5 in the debt collection activity.

6 127458. The ~~physician and surgeon~~ *emergency physician* shall
7 reimburse the patient or patients any amount actually paid in excess
8 of the amount due under this article, including interest. Interest
9 owed by the ~~physician and surgeon~~ *emergency physician* to the
10 patient shall accrue at the rate set forth in Section 685.010 of the
11 Code of Civil Procedure, beginning on the date payment by the
12 patient is received by the ~~physician and surgeon~~ *emergency*
13 *physician*. However, a ~~physician and surgeon~~ *an emergency*
14 *physician* is not required to reimburse the patient or pay interest
15 if the amount due is less than five dollars (\$5). The ~~physician and~~
16 ~~surgeon~~ *emergency physician* shall give the patient a credit for the
17 amount due for at least 60 days from the date the amount is due.

18 127459. The rights, remedies, and penalties established by this
19 article are cumulative, and shall not supersede the rights, remedies,
20 or penalties established under other laws.

21 127460. Nothing in this article shall be construed to prohibit
22 a ~~physician and surgeon~~ *the emergency physician* from uniformly
23 imposing charges from its established charge schedule or published
24 rates, nor shall this article preclude the recognition of a ~~physician~~
25 ~~and surgeon's~~ *an emergency physician's* established charge
26 schedule or published rates for purposes of applying any payment
27 limit, interim payment amount, or other payment calculation based
28 upon a ~~physician and surgeon's~~ *an emergency physician's* rates
29 or charges under the Medi-Cal program, the Medicare Program,
30 workers' compensation, or other federal, state, or local public
31 program of health benefits. No health care service plan, insurer,
32 or any other person shall reduce the amount it would otherwise
33 reimburse a claim for ~~physician and surgeon~~ *emergency physician*
34 services because a ~~physician and surgeon~~ *an emergency physician*
35 has waived, or will waive, collection of all or a portion of a
36 patient's bill for ~~physician and surgeon~~ *emergency physician*
37 services in accordance with the ~~physician and surgeon's~~ *emergency*
38 *physician's* discount payment policy, notwithstanding any
39 contractual provision.

1 127461. Notwithstanding any other provision of law, the
2 amounts paid by parties for services resulting from reduced or
3 waived charges under ~~a physician and surgeon's an emergency~~
4 ~~physician's~~ discounted payment policy shall not constitute ~~a~~
5 ~~physician and surgeon's an emergency physician's~~ uniform,
6 published, prevailing, or customary charges, its usual fees to the
7 general public, or its charges to non-Medi-Cal purchasers under
8 comparable circumstances, and shall not be used to calculate ~~a~~
9 ~~physician and surgeon's an emergency physician's~~ median
10 non-Medicare or non-Medi-Cal charges, for purposes of any
11 payment limit under the federal Medicare Program, the Medi-Cal
12 program, or any other federal or state-financed health care program.

13 127462. To the extent that any requirement of this article results
14 in a federal determination that ~~a physician and surgeon's an~~
15 ~~emergency physician's~~ established charge schedule or published
16 rates are not the physician and surgeon's customary or prevailing
17 charges for services, the requirement in question shall be
18 inoperative for all ~~physician and surgeons emergency physicians~~.
19 The State Department of Public Health shall seek federal guidance
20 regarding modifications to the requirement in question. All other
21 requirements of this article shall remain in effect.